IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6994 OF 2005

Shri Gurunath Mahadev Gondhali & Anr. ..Petitioners.
Versus
Smt. Gulab Manohar Dake & Ors. ..Respondents.

Ms. Gauri Godse for the Petitioners.

CORAM : S. A. BOBDE, J.
DATED : 13TH OCTOBER, 2005.

P.C.:

1. This petition is by the defendant No.1, challenging the order dated 30th September, 2005 passed by the Joint Civil Judge, Jr.Dvn. Panvel. The only direction given by the Joint Civil Judge in the impugned order is that the Panvel Municipal Council and the CIDCO have been directed to be joined as party defendants in the suit and the matter was fixed for hearing on the next date.

2. Ms. Godse, the learned counsel for the petitioners submitted that the effect of the said order is to change the subject matter of the suit. It is not possible to accept this contention. The plaintiff is dominus litus and the subject matter of the suit has been specified by the plaintiff in the plaint. It appears that the learned Civil Judge, J.D., Panvel has directed to implead the concerned statutory authorities upon finding a substantial

change made in the structure and the construction in dispute, which is seen from the photographs enclosed with the earlier commission report at Exh. 14. Ms. Godse, the learned counsel for the petitioner states that the change is not in respect of the structure which is subject matter of the suit. This point is kept open and the petitioners may raise this issue at an appropriate stage. There is no reason to interfere with the interim order, which does not suffer from any infirmity or otherwise and the petition is dismissed.

3. Ms. Godse, however, submits that there is an apprehension that the petitioners' suit house property may be made the subject of action by the newly impleaded defendants i.e. CIDCO and Panvel Municipal Council. The petitioners are at liberty to apply for appropriate orders in case there is such threat to the petitioners' house property.

DT. 13.10.05 (S.A.BOBDE,J)

.....